

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LANDWORKS CREATIONS, LLC,)	
Plaintiff,)	
v.)	
UNITED STATES FIDELITY AND)	C.A. No. 4:05-CV-40072-FDS
GUARANTY COMPANY,)	
Defendant.)	

**REQUEST OF UNITED STATES FIDELITY & GUARANTY COMPANY
FOR SPECIAL VERDICT UNDER F.R.C.P. 49(a)**

Defendant, United States Fidelity & Guaranty Company, requests that this court adopt the Special Verdict attached hereto.

Respectfully submitted,
**UNITED STATES FIDELITY &
GUARANTY COMPANY,**
By its attorneys,

/s/ Peter G. Hermes

Peter G. Hermes, BBO No. 231840
Cynthia J. Stephens, BBO No. 560670
HERMES, NETBURN, O'CONNOR
& SPEARING, P.C.

265 Franklin Street, Seventh Floor
Boston, MA 02110-311

(617) 728-0050; (617) 728-0052 (F)

Dated: May 13, 2008

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

LANDWORKS CREATIONS, LLC,)	
Plaintiff,)	
v.)	
UNITED STATES FIDELITY AND)	C.A. No. 4:05-CV-40072-FDS
GUARANTY COMPANY,)	
Defendant.)	

SPECIAL VERDICT UNDER F.R.C.P. 49(a)

1. Did Landworks fully perform all of its work under the Ratification Agreement with USF&G?

Yes: _____ No: _____

If your answer to Question 1 is “Yes,” please proceed to Question 3.

If your answer to Question 1 is “No,” please proceed to Question 5.

2. Did Landworks substantially perform the Ratification Agreement with a good faith intention to full perform the Ratification Agreement

Yes: _____ No: _____

If your answer to Question 2 is “Yes,” please proceed to Question 3.

If your answer to Question 2 is “No,” please proceed to Question 5.

3. Did USF&G breach the Ratification Agreement?

Yes: _____ No: _____

If your answer to Question 3 is “Yes,” please proceed to Question 4.

If your answer to Question 3 is “No,” please proceed to Question 5.

4. What is the amount, if anything, is owed Landworks under the Ratification Agreement?

Amount in words _____

Amount in figures _____

This amount cannot exceed \$135,101.

Please proceed to Question 6.

5. What is the value of the work left incomplete by Landworks?

Amount in words _____

Amount in figures _____

Please proceed to Question 6.

6. Did Landworks have a subcontract with Jackson Construction Company, Inc.?

Yes: _____

No: _____

If your answer to Question 6 is “Yes,” please proceed to Question 7.

If your answer to Question 6 is “No,” your service is complete. Please sign this form and return to the courtroom.

7. Did Landworks fully perform its subcontract with Jackson?

Yes: _____

No: _____

If your answer to Question 7 is “Yes,” please proceed to Question 9.

If your answer to Question 7 is “No,” please proceed to Question 8.

8. Did Landworks substantially perform its subcontract with Jackson with a good faith intention to perform the subcontract fully?

Yes: _____

No: _____

If your answer to Question 8 is “Yes,” please proceed to Question 9.

If your answer to Question 8 is “No,” please proceed to Question 11.

9. Did Jackson breach that contract with Landworks?

Yes: _____

No: _____

If your answer to Question 9 is “Yes,” please proceed to Question 10.

If your answer to Question 9 is “No,” please proceed to Question 11.

10. What is the amount, if anything, is owed Landworks under its subcontract with Jackson?

Amount in words _____

Amount in figures _____

The total of numbers 4 and 10 cannot exceed \$135,101.00.

11. What is the value of the work left incomplete by Landworks?

Amount in words _____

Amount in figures _____

Date:

FOREPERSON OF THE JURY